

HOUSE No. 933

By Mr. Naughton of Clinton, petition of Harold P. Naughton, Jr. that provision be made for a plea of guilty but insane in certain criminal proceedings. The Judiciary.

The Commonwealth of Massachusetts

In the Year Two Thousand and Five.

AN ACT PROVIDING FOR A PLEA OF GUILTY BUT INSANE IN CRIMINAL PROCEEDINGS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 123 of the General Laws is hereby
2 amended by inserting after section 17 the following section:—

3 Section 17A. (a) Notwithstanding the provision of any law to
4 the contrary, a person who timely offers a defense of not guilty by
5 reason of mental illness or mental defect in accordance with the
6 provisions of this chapter and the rules of criminal procedure may
7 be found guilty but insane at trial if the trier of facts finds, beyond
8 a reasonable doubt that the person is guilty of the offense, was
9 insane at the time of the commission of the offense and did not
10 meet the legal requirements of mental illness or mental defect at
11 the time of the commission of the offense as set out in this
12 chapter.

13 (b) A person who waives his right to trial may plead guilty but
14 insane. No pleas of guilty but insane may be accepted by the trial
15 judge until the defendant has undergone examination by a licensed
16 psychologist or psychiatrist and the trial judge has examined the
17 psychological or psychiatric reports, held a hearing on the sole
18 issue of the defendant's insanity at which either party may present
19 evidence and is satisfied that the defendant was insane at the time
20 of the offense to which the plea is entered. If the trial judge
21 refuses to accept a plea of guilty but insane, the defendant shall be
22 permitted to withdraw his plea. A defendant whose plea is not
23 accepted by the court shall be entitled to a jury trial, except that if

24 a defendant subsequently waives his right to a jury trial, the judge
25 who presided at the hearing on mental illness shall not preside at
26 the trial.

27 (c) For purposes of this section the term “insane” shall mean
28 having a disorder of thought or mood which significantly impairs
29 judgment, behavior, capacity to recognize reality, or ability to
30 cope with the ordinary demands of life; provided, however, that
31 “insane” shall not include a mental state manifested only by
32 repeated unlawful or antisocial conduct.

33 (d) In all cases in which the defense of mental illness or mental
34 defect is asserted, the trial judge shall charge the jury with regard
35 to the special verdict of guilty but insane.

36 (e) Whenever a defendant is found or pleads guilty but insane,
37 the court shall sentence him in the same manner as a defendant
38 found guilty of the offense but shall take into consideration the
39 verdict in determining in which facility the defendant will serve
40 his sentence; provided, however, that in no event shall the defen-
41 dant be released until he has served his sentence.

1 SECTION 2. This act shall apply to all criminal proceedings
2 commenced on or after the effective date of this act.